



## ***Frequently Asked Questions About Proposed Critical Habitat & the Kootenai River Population of the White Sturgeon***

### ***Q. What is the Kootenai River white sturgeon?***

White sturgeon of the genus *Acipenser* are believed to have evolved nearly 400 million years ago. White sturgeon are the largest freshwater or anadromous fish in North America. The largest authenticated record of a white sturgeon was 1,378 pounds, taken from the Fraser River in British Columbia, Canada. The Kootenai River population of white sturgeon is one of several land-locked populations found in the Pacific Northwest. Individuals from the landlocked populations are generally much smaller. From the Kootenai River population, there are no records from either the United States or Canada of sturgeon over 350 pounds. All sturgeon are distinguished in having a cartilaginous skeleton with a persistent notochord, and also a protractile, tube-like mouth and sensory barbels on the ventral surface of the snout. The white sturgeon is distinguished from other species in its genus by the specific arrangement and number of scutes (bony plates) along its body. The fish have 11 to 14 dorsal, 36 to 48 lateral, and 9 to 12 ventral scutes.

### ***Q. What are the threats to the Kootenai River white sturgeon?***

The Kootenai River white sturgeon population is threatened by factors including hydropower operations, flood control operations, loss of habitat and possible contaminants (water quality impacts). Modifications of the Kootenai River white sturgeon's habitat by human activities has changed the natural hydrograph of the Kootenai River, altering white sturgeon spawning, egg incubation, and rearing habitats, and reducing overall biological productivity. These factors have contributed to a general lack of recruitment in the white sturgeon population since the mid-1960s. In the September 6, 1994, final rule listing the Kootenai River population of white sturgeon as endangered (59 FR 45989) the Service identified the lack of natural flows in the Kootenai River below Libby Dam as the primary threat to this white sturgeon population.

### ***Q. What is critical habitat?***

Critical habitat is defined as specific occupied and unoccupied areas that have been found to be essential to the conservation of a federally listed species, and which may require special management considerations or protection.



Critical habitat is identified using the best available scientific and commercial information about the physical and biological needs of the species. These needs include:

- space for individual and population growth, and for normal behavior.
- food, water, light, air, minerals or other nutritional or physiological needs.
- cover or shelter.
- sites for breeding, reproduction, and rearing of offspring.
- habitat that is protected from disturbance or is representative of the historical geographic and ecological distribution of a species.

***Q. Does the designation of critical habitat create preserves?***

No. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. It does not allow government or public access to private lands and will not result in closure of the area to all access or use.

***Q. Is an economic analysis required as part of designating critical habitat?***

Yes. The Service must take into account the economic impact and other relevant impacts of identifying any particular area as critical habitat. Unless the failure to designate an area as critical habitat would result in the extinction of the species, we may exclude an area from critical habitat if we determine that the benefits (economic and otherwise) of excluding it outweigh the benefits of including it. This determination is based on the best scientific, economic, and commercial information available.

***Q. Is critical habitat designated for all listed species?***

No. Critical habitat has been designated for 134 of the 1,233 species currently listed as threatened and endangered under the Act. The Act requires us to identify critical habitat at the time a species is listed. However, in some cases, designating critical habitat may be considered “not prudent” if it would cause harm to the species, such as increasing the possibility of vandalism or collection or would not be beneficial to the species. We may find that such a designation is “not determinable” if we don’t have enough information when a species is listed to define areas as critical habitat.

***Q. Why is critical habitat being proposed for the Kootenai River population of the white sturgeon now?***

At the time of listing, we found critical habitat not determinable because the necessary information to perform the required impact analyses of such a designation was lacking. In addition, specific areas of critical habitat could not be identified without additional information on the life history and habitat requirements of the sturgeon. This proposal is made in response to an August 30, 2000, court decision in Center for Biological Diversity v. Bruce Babbitt and the United States Fish and Wildlife Service, C-99-3202-SC, directing us to submit for publication in the Federal Register a proposal for



designation of critical habitat within 60 days, and a publication of a final critical habitat designation no later than 120 days after the proposed designation is published. We are proposing as critical habitat a total of 11.2 river miles of the Kootenai River in Idaho.

***Q. Would the designation of critical habitat for the sturgeon in the Kootenai River near Bonners Ferry affect use of my personal property? Will this result in any taking of my property?***

Our proposed rule to designate critical habitat for the sturgeon is limited to 11.2 miles of the bed and banks of the Kootenai River, from Bonners Ferry to below Shorty's Island and bounded by the ordinary high water lines. This streambed is owned by the State of Idaho. We do not believe any personal property is involved.

***Q. What happens if State lands are designated critical habitat for the Kootenai River population of the white sturgeon?***

The designation of critical habitat on non-Federal land does not mean the government would like to acquire or control the land. Activities on non-Federal lands that do not require Federal permits, licenses, or funding are not affected by a critical habitat designation. Critical habitat does not require landowners to carry out any special management actions or restrict the use of their lands. However, under other provisions of the Endangered Species Act, landowners must consult with the Service before taking actions on their property that could harm, harass, or kill protected species. This includes destroying their habitat.

If a non-Federal landowner needs a Federal permit or license, or receives Federal funds for a specific activity, the Federal agency would consult with the Service to determine how the action may affect the Kootenai River white sturgeon or its designated critical habitat. Section 7 of the Act requires Federal agencies to consult with the Service on any activities they authorize, fund, or carry out which "may affect" a listed species, or its designated critical habitat. Through this consultation process, the Service and Federal agencies ensure that permitted actions do not change (adversely modify) critical habitat in such a way that it no longer can meet the physical and biological needs of the species. We also determine if actions are likely to jeopardize the continued existence of a listed species. Because of similarities in analysis standards we believe that projects which will not jeopardize a listed species will also not result in the adverse modification of critical habitat in areas occupied by the species. The requirement to consult with the Service applies to all land that have been identified as critical habitat where Federal agencies, permits or funding are involved.

***Q. How would a critical habitat designation for the Kootenai River population of the white sturgeon affect recreation?***

We do not expect any effect on current recreational activities should critical habitat be designated.

***Q. If finalized, would this proposed rule for designation of critical habitat result in Fish and Wildlife***



***Service recommendations for higher Kootenai River water levels than those already recommended under the biological opinion for the operation of Libby Dam?***

No. This would not change flow recommendations. Flow recommendations were developed in consultation with the U.S. Army Corps of Engineers. They are already based on the same, best available scientific information used to develop this proposed rule, and they were developed within the authorized flood control criteria or constraints.

***Q. Would this proposal to designate critical habitat for the sturgeon result in any additional Kootenai River flows which could increase erosion of my levees?***

No. Kootenai River flow recommendations would continue to be made under the Service's biological opinion for the Federal Columbia River Power System, which includes operations of Libby Dam. If the proposed rule for sturgeon critical habitat is adopted, critical habitat would become a consideration, along with the most significant jeopardy threshold and take or harm prohibitions, in future biological opinions. This biological opinion recommends substantial limitations on rapid water level changes caused by hydroelectric load following. This is expected to: 1) lower maintenance costs; and 2) benefit levee owners throughout the Kootenai Valley in the United States and Canada by greatly reducing the rate of levee erosion from that observed during the last 26 years of operations of Libby Dam.

***Q. Would the designation of critical habitat cause any additional crop damage or increased pumping costs through additional seepage from Kootenai River during sturgeon spawning/rearing flows?***

No. Designation of critical habitat is not expected to result in any increase in flows or duration of flows in the Kootenai River beyond recommendations of the biological opinion addressing operations of Libby Dam.

***Q. Would the designation of critical habitat for sturgeon in any way affect my flowage/seepage easement under section 56 of Public Law 93-251?***

No. The designation of critical habitat for sturgeon would not affect the releases of claims previously agreed upon under section 56 of Public Law 93-251.

***Q. What about lands where regional HCP's are being developed or will be developed in the future?***

The proposed designation of critical habitat should not impede ongoing habitat conservation planning efforts in northern Idaho. The long-term conservation of white sturgeon is being addressed as these plans are developed. During the comment period, the Service is particularly interested in comments from the public on how to address critical habitat within future HCP's.



***Q. How will any final designation of critical habitat affect activities for which a party has already consulted with the Service under section 7 of the Act?***

Federal regulations require agencies to reinitiate consultation with the Service on previously reviewed actions if critical habitat is designated after the initial consultation and if those actions may affect critical habitat. This applies only if those agencies have retained some type of discretion or control over the action, or if such involvement is authorized by law.

***Q. What happens if a project is reviewed as part of a re-initiation of consultation and the Service determines it will adversely modify critical habitat?***

Regardless of whether critical habitat has been designated, we must still consider the effect a project may have on the continued existence and recovery of a listed species. When reviewing projects under section 7, we must determine if the proposed action is likely to “jeopardize the continued existence” of a species by asking the question “*will the project appreciably reduce the likelihood of the species’ survival and recovery?*” A project that will “destroy or adversely modify” critical habitat is one that will significantly reduce the value of critical habitat for the survival and recovery of the species. Since these standards are similar, it is highly unlikely that an activity that was reviewed and permitted by the Service under section 7 of the Act prior to the designation of critical habitat would be changed because critical habitat is now proposed for the area.

***Q. Will the public be given an opportunity to comment on proposed critical habitat for the Kootenai River population of the white sturgeon?***

Yes. The Service wants to ensure that any final action resulting from this proposal will be as accurate and as effective as possible. We are actively soliciting comments or suggestions from the public, other government agencies, the scientific community, industry representatives, and any other interested party. In particular, we are seeking comments regarding:

- Whether future development and approval of conservation measures (such as conservation agreements and “safe harbor” agreements) should trigger revision of proposed critical habitat to exclude such lands.
- Reasons why any habitat should or should not be designated as critical habitat, including whether the benefits will outweigh any threats to the species resulting from critical habitat designation;
- Specific information on the specific river areas necessary for spawning, reproduction, and rearing of offspring; and water quality, temperature, and velocity in the Kootenai River required to meet some life history need (e.g., spawning and early rearing, and juvenile migration).
- Land use practices and current or planned activities in the proposed areas, and possible impacts of these actions on proposed critical habitat;



- Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, impacts to small entities or families;
- Economic or other values associated with critical habitat designation for white sturgeon, such as those derived from non-consumptive uses (e.g., enhanced watershed protection, improved air quality, increased soil retention, existence values, and reductions in administrative costs).

Written comments and information on the proposed designation of critical habitat for the Kootenai River population of the white sturgeon will be accepted through February 20, 2001, and should be sent to Field Supervisor, Upper Columbia Fish and Wildlife Office, 11103 East Montgomery, Spokane, Washington, 99206.

We will hold a public hearing at the Kootenai River Inn, 7160 Plaza Street, Bonners Ferry, Idaho, on Thursday, January 18, 2001, from 6:00 p.m. until 8:00 p.m.

All comments received, either written or oral, are given equal weight and will be considered during the decision-making process. Comments and materials received will be available for public inspection, by appointment, during normal business hours, at the Upper Columbia Fish and Wildlife Office, 11103 East Montgomery, Spokane, Washington, 99206 (phone: 509/891-6839).

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